

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JEREMY PINSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-12-0843-F
)	
FEDERAL BUREAU OF PRISONS,)	
)	
Defendant.)	

ORDER

Plaintiff Jeremy Pinson brings this action against the Federal Bureau of Prisons. He alleges a violation of the Eighth Amendment of the United States Constitution as a result of the manner in which he was housed, alone, while in confinement at the Federal Transfer Center in Oklahoma City, despite suffering from epilepsy and associated seizures. Plaintiff appears *pro se* and his pleadings are liberally construed.

The August 27, 2012, Report and Recommendation of Magistrate Judge Robert E. Bacharach, doc. no. 8 (the Report), recommends that the court apply 28 U.S.C. §1915(g),¹ deny pauper status, and require payment of the \$350 filing fee.

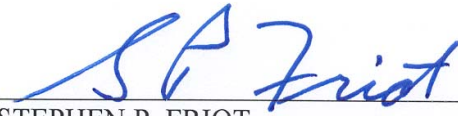
Rather than pay the filing fee, Mr. Pinson objected to the Report. Although the objection presents a number of new matters and arguments which were not presented to the magistrate judge, the court has reviewed those matters as well as the record as a whole. Having done so, it finds that nothing submitted or argued by Mr. Pinson suggests a result different from the one recommended in the Report. Mr. Pinson has

¹Section 1915(g) provides that a prisoner cannot proceed *in forma pauperis* if he has brought at least three actions or appeals in a court of the United States which were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim, unless the prisoner is under imminent danger of serious physical injury.

three or more dismissals within the meaning of § 1915(g); additionally, he has not alleged, and he cannot allege, an imminent threat that is both specific and credible because, among other things, Mr. Pinson is no longer at the Federal Transfer Center.²

After careful consideration of plaintiff's objections, the record and the relevant authorities, the court agrees with the result recommended in the Report of Magistrate Judge Bacharach. Plaintiff's objections to the Report are **DENIED**. The result recommended in the Report is **ACCEPTED, ADOPTED** and **AFFIRMED**. Absent payment of the \$350 filing fee within twenty-one days of the date of this order, this action will be dismissed without prejudice for failure to pay the filing fee. *See*, LCvR3.3(e) (failure to pay filing fee by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by the date specified for payment, shall be cause for dismissal without prejudice to refiling).

Dated this 6th day of September, 2012.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

12-0843p001.wpd

²In his objection Mr. Pinson does not dispute that he is no longer at the Federal Transfer Center. He does dispute the Report's conclusion that he was no longer in the Federal Transfer Center when this action was filed. However, Mr. Pinson implicitly concedes that he had been moved out of the Federal Transfer Center by the time the complaint "was forwarded to FCC Florence instead of to the court and FCC Florence officials requested plaintiff re-mail it in a new envelope." Doc. no. 9, p. 2. Mr. Pinson argues that he is going to be returned to the Federal Transfer Center soon, in transit to Alabama pursuant to a writ of habeas corpus ad testificandum. None of these facts, taken as true, allege an imminent threat that is both specific and credible.